

STATE OF TENNESSEE

Certification Pursuant to Tenn. Code Ann. \S 67-4-2601 *et seq.*

Form 294

GENERAL INFORMATION

Who is required to file this certification?

Any tobacco product manufacturer that intends to begin or continue selling cigarettes, the definition of ACigarettes \equiv includes Alittle cigars, \equiv within the State of Tennessee, whether directly or through any distributor, retailer, or similar intermediary or intermediaries. (This Certification is in addition to any Certificate of Compliance that may be required pursuant to the Tennessee Tobacco Manufacturers' Escrow Fund Act of 1999, T.C.A. \S 47-31-101 *et seq.*)

The State of Tennessee interprets the term "Tobacco Product Manufacturer" to be the entity that fabricates or assembles Cigarettes.

Definitions:

- (a) "Brand Family" means all styles of Cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of Cigarettes.
- (b) "Cigarette" has the same meaning as in T.C.A. \S 47-31-102(4). The term ACigarette \equiv includes roll-your-own tobacco (0.09 ounces of which constitutes one individual ACigarette \equiv) and little cigars.
- (c) "Directory" means the Directory described in T.C.A. \S 67-4-2602(b).
- (d) ALicensed Agent \equiv means a person that is authorized to affix tax stamps to packages or other containers of Cigarettes under T.C.A. \S 67-4-1006 or any person that is required to pay the tobacco tax imposed pursuant to T.C.A. \S 67-4-1002.
- (e) "Master Settlement Agreement" has the same meaning as in T.C.A. \S 47-31-102(5).
- (f) "Non-Participating Manufacturer" means any tobacco product manufacturer that is not a Participating Manufacturer.
- (g) "Participating Manufacturer" has the meaning given that term in Section II(jj) of the Master Settlement Agreement and all amendments thereto.
- (h) "Qualified Escrow Fund" has the same meaning as that term is defined in T.C.A. \S 47-31-102(6).

- (i) "Tobacco Product Manufacturer" has the same meaning as that term is defined in T.C.A. § 47-31-102(9). The State of Tennessee interprets the term "Tobacco Product Manufacturer" to be the entity that fabricates or assembles cigarettes.
- (j) "Units Sold" has the same meaning as that term is defined in T.C.A. § 47-31-102(10).

When is this Certification due?

For the year 2004, the Tobacco Product Manufacturer must execute and deliver a certification no later than April 30, 2004. If the 2004 Certification is not properly executed and delivered by April 30, 2004, the Tobacco Product Manufacturer will be removed from the Directory on the following business day (May 3, 2004) without further communication. Supplemental Certifications must be executed and delivered thirty (30) calendar days before any addition to or modification of a Tobacco Product Manufacturer's Brand Families.

SPECIFIC INSTRUCTIONS

Part 1: Tobacco Product Manufacturer Identification. Provide the name, address, telephone number, fax number and electronic mail address, as well as the name/title of the person completing the Certification. Certify whether the Tobacco Product Manufacturer is a Participating Manufacturer or is in full compliance with T.C.A. § 47-31-103.

Part 2: Brand Family Identification. Identify by Brand Family and brand name all of the cigarettes that the Tobacco Product Manufacturer intends to begin or continue selling in Tennessee whether directly or through any distributor, retailer, or similar intermediary or intermediaries, and seeks to have included in the Directory. Only the brand families identified may be included in the Directory.

A Participating Manufacturer must complete columns A and B and may not include a Brand Family in its Certification unless it affirms that the Brand Family is to be deemed its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement. The Participating Manufacturer shall update such list thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental Certification to the Attorney General and Commissioner.

A Non-Participating Manufacturer must complete columns A through E with the following information: A) a list of all of its Brand Families sold during the preceding and current calendar years, B) a list of the Brands within each Brand Family, C) the number of Units Sold for each Brand Family that were sold in Tennessee during the preceding calendar year, D) the number of Units Sold for each Brand Family that were sold in Tennessee during the current calendar year and E) the name and address of any other Tobacco Product Manufacturer of such Brand Families in the preceding or current calendar year. A Non-Participating Manufacturer may not include a Brand Family in its Certification unless it affirms that the Brand Family is to be deemed its Cigarettes for purposes of T.C.A. § 47-31-103. The Non-Participating Manufacturer shall update such list thirty (30) calendar days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental Certification to the Attorney General and Commissioner.

Part 3: Non-Participating Manufacturer Certification

- A.** Certify that the Non-Participating Manufacturer is registered to do business in Tennessee or has appointed a resident agent for service of process and provided notice thereof as required by T.C.A. § 67-4-2603.
- B.** Identify (i) the name, address and telephone number of the financial institution where the Non-Participating Manufacturer has established a Qualified Escrow Fund pursuant to T.C.A. § 47-31-103; (ii) the account number of such Qualified Escrow Fund and any sub-account number for Tennessee. Also provide the name of a representative of the financial institution who is knowledgeable about the Qualified Escrow Fund.
- C.** Identify (i) the amount such Non-Participating Manufacturer placed in its Qualified Escrow Fund for Cigarettes sold in the State during the preceding calendar year, the date and amount of each such deposit; and (ii) the amount and date of any withdrawal or transfer of funds the Non-Participating Manufacturer made at any time from such fund or from any other Qualified Escrow Fund.

Part 4: Execution by Tobacco Product Manufacturer . The person executing the Certification must be an authorized company representative of the Tobacco Product Manufacturer identified in Part 1. The Designee's name and title must be printed and the Certification must be executed in the presence of an authorized notary.

STATE OF TENNESSEE
Certification Form Pursuant to Public Chapter No. 294

Part 1: Tobacco Product Manufacturer Identification

Company: _____

Address: _____

Address: _____

Phone: _____ FAX: _____

Email: _____

Name/Title of Person Completing Certification: _____

The Tobacco Product Manufacturer identified above is, as of the date of this Certification: (Initial One)
_____ A Participating Manufacturer under the Tobacco Master Settlement Agreement.

_____ A Non-Participating Manufacturer in full compliance with T.C.A. § 47-31-101 *et seq.*

Part 2: Brand Family Identification (Attach additional sheets if necessary)
(Participating Manufacturers complete A & B; Non Participating Manufacturers complete A through D.)

A. Brand Family (indicate by asterisk (*) any Brand Family sold in TN during the preceding calendar year that is no longer being sold in TN during the current calendar year)	B. Brand Name	C. Units Sold: Preceding Calendar Year	D. Units Sold: Current Calendar Year	E. Name and Address of Other Manufacturers of Brand Family in the Preceding or Current Calendar Year

Part 3: Non-Participating Manufacturer Certification

A. Registered Agent for service of process (Initial one):

_____ The Non-Participating Manufacturer identified in Part 1 is registered to do business in the State of Tennessee.

_____ The Non-Participating Manufacturer identified in Part 1 is not registered to do business in the State of Tennessee as a foreign corporation or business entity but has appointed and continues to engage the following Agent for Service of Process located in Tennessee on whom all process, and any action proceeding against it concerning or arising out of the law enforcement of Public Chapter 294 and T.C.A. § 47-31-101 *et seq.* may be served in any manner authorized by law:

Agent Name: _____

Company: _____

Address: _____

Address: _____

Phone: _____ FAX _____

Email: _____

B. Qualified Escrow Fund - Financial Institution

Name of Institution: _____

Address: _____

Representative Name: _____

Phone: _____

Escrow Acct No: _____ Sub Account No. for TN _____

C. Escrow Deposit/Withdrawal¹ History for Tennessee (Attach additional sheets if necessary)

Date	Deposit	Withdrawal	Balance

¹ Withdrawals must comply with T.C.A. § 47-31-103(a)(2)(B). Verification of compliance must be provided

Date	Deposit	Withdrawal	Balance
	Total:	Total:	Total:

Part 4. Execution by Tobacco Product Manufacturer

Under penalty of perjury, I state that the tobacco product manufacturer identified in Part 1 fabricates or assembles the Brand Families listed in Part 2(A) that the tobacco product manufacturer intends to sell in Tennessee. The information contained in this Certification is true and accurate.

Designee (Print Name): _____ Title: _____
Signature of Designee: _____ Date: _____

Subscribed and sworn to before me on this date: _____
Signature of Notary Public: _____ City or County of _____
My Commission expires: _____

The completed Certificate must be forwarded to both of the following addresses:

Tennessee Department of Revenue
Andrew Jackson State Office Building
P.O. Box 190590
Nashville, TN 37219
Attention: John Harvey

Carolyn U. Smith
Assistant Attorney General
Tobacco Unit
Office of the Tennessee Attorney General
P. O. Box 20207
Nashville, TN 37202-0207